

Pongkhamsing, Chan

From: Reed, Catherine D. (ECY) <CRAJ461@ECY.WA.GOV>
Sent: Wednesday, January 14, 2015 12:14 PM
To: Pongkhamsing, Chan; Dale J (Jess) NWS Jordan (Dale.J.Jordan@usace.army.mil); Rave-Perkins, Krista
Cc: Graff, Gary (ECY)
Subject: RE: Bainter - Stream Diversion
Attachments: DSC00598.JPG; DSC00597.JPG

I am not sure that I followed up with an e-mail to tell you what I found on the Bainter property re Shaw Creek in Yakima. I finally made it out there on Dec 18, 2014. Conditions were not changed since I had been out there this summer except that the surface of the ground had been slightly disturbed due to the planting of hundreds (I did not count them) of plant cuttings within the buffer area to on the the west half of the property along the current location of the Creek. (I assume that they were mostly willows or red osier dogwood, but I did not spend a lot of time looking at them.)

I do not think that any significant area of wetlands has been recently (last two years) affected. I measured the area of wetland that is still vegetated (not mown) and compared that with a delineation report drawing that was submitted to the City by Fulcrum Environmental Consulting in March 2014. My measured length was 46' and Fulcrum's was 65' - it could be that their wetland edge projected out into the mown area: their delineation markers were gone from the field. (The orange flags visible in the attached photos are attached to installed plants.) It did not appear to me that there had been recent filling there, but just for the sake of argument, if there had been filling activity within the 20-foot discrepancy, the amount of wetland filled would be 20' by 20' at the most for a total of 400 square feet.

I did not go on to the neighboring property to the east, but I did look through binoculars at the waterway. There were pink flags that may be marking the location of the OHWM (possibly wetland edge) of Shaw Creek. There may have been some brush cleaning in the riparian area, but it didn't look to me like any wetlands had been filled. I was viewing the site looking east from my vantage point just west of the culvert that is immediately downstream of the wetland on the Bainter Property.

I hope this information helps you with your complaint investigation. I have more pictures of the site if you want to view them. Ecology considers the complaint that we received to be closed and we will be taking no more action on site activities to date.

I expect that sometime soon, Mr. Bainter will be installing a sewer pipeline on his property which will cross the creek but not the wetland, although I don't know whether anyone has appealed the last SEPA that went through regarding that proposal. If you are interested in that issue, you could call Jeff Peters at the City of Yakima. His number is (509) 575-6163.

Catherine Reed, PWS
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-----Original Message-----

From: Pongkhamsing, Chan [mailto:Pongkhamsing.Chan@epa.gov]
Sent: Thursday, November 13, 2014 11:10 AM
To: Dale J (Jess) NWS Jordan (Dale.J.Jordan@usace.army.mil); Rave-Perkins, Krista; Reed, Catherine D. (ECY)
Subject: FW: Bainter - Stream Diversion --- JARPAs

Hi All,
Below is additional info (email from Mr. Seaman I received last Tuesday) for our discussion today. I have not responded to this email yet.

Gratitude,

Chan Pongkhamsing
CWA 404 Enforcement Coordinator
Aquatic Resources Unit
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-----Original Message-----

From: Matthew Seaman [mailto:Matthew142@msn.com]
Sent: Tuesday, November 11, 2014 3:17 PM
To: Pongkhamsing, Chan
Subject: Bainter - Stream Diversion --- JARPAs

To: Chan Pongkhamsing
From: Matthew Seaman
Date: 11/11/14
Re: JARPA 2012 and JARPA 2014

Please help me with a JARPA 18 USC 1001 violation referral to the Department of Justice.

About two weeks ago I sent you some introductory materials regarding unlawful critical area violations by Bainter Group LLC and Mr. Greg Bainter. These materials addressed the diversion and relocation of Shaw Creek and filling of critical areas (without permits).

The JARPA of 2012 and the JARPA of 2014 submitted by Mr. Bainter contains false, misleading, and deceptive responses. I have prepared a binder of hard evidence to support the claim that Mr. Bainter has violated 18 USC 1001. At this time, I wish to send the materials to the Department of Justice for possible investigation and prosecution. Through the DOJ website it appears there are some generic addresses to send this material. However, it may be more effective to locate a regional legal office for the DOJ and send the materials to an appropriate official or attorney.

If you have suggestions regarding the appropriate DOJ official or attorney who would review the JARPAs and supporting evidence, please let me know.

In addition, if you would like to review the same materials, please let me know so that I can copy these items and send them to you. These materials are in paper format and cannot be attached to an email.